

JPA File No.: JPA 05-085

A.G. Number: KR05-0766TRN

Project: EVP Signal Maintenance Agreement

Section: US 60 & Montesa Way

**INTERGOVERNMENTAL AGREEMENT**

Electrical Operation and Maintenance

BETWEEN  
THE STATE OF ARIZONA  
AND  
THE APACHE JUNCTION FIRE DISTRICT

THIS AGREEMENT is entered into this date September 14, 2005, pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its Department Of Transportation (the "State"), and the APACHE JUNCTION FIRE DISTRICT, acting by and through its Board of Directors (the "AJFD").

**I. RECITALS**

1. The State is empowered by Arizona Revised Statutes Section 28-401 to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of the State.

2. The AJFD is empowered by Arizona Revised Statutes Section 48-801 to enter into this Agreement and has resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of AJFD.

3. Upon completion of construction and acceptance, according to the terms of the Arizona Department of Transportation, of an emergency vehicle pre-emption (EVP) traffic signal, at the intersection of Route 60 (US 60) and Montesa Way, the State and the AJFD desire to participate in the maintenance of the pre-emption, herein referred to as the "Project".

**THEREFORE**, in consideration of the mutual covenants expressed herein, it is agreed as follows:

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NO. 27717  
Filed with the Secretary of State  
Date Filed: 9-14-05

Janice K. Powers  
Secretary of State

By: [Signature]

## **II. SCOPE OF WORK**

1. The AJFD will:

- a. Submit and receive approval for the Project from the Arizona Department of Transportation Traffic Control Products Evaluation Committee, for the installation of the EVP traffic signal.
- b. Obtain an Encroachment Permit through the Phoenix Maintenance District Permits Office for the installation of the EVP traffic signal.
- c. Be responsible for providing electrical energy to operate the EVP traffic signal.
- d. Be responsible for maintaining a reasonable inventory of all associated EVP system components, including transmitters installed on fire trucks or ambulances; EVP components located in the controller cabinet, any optical sensor devices, and an emitter for testing as needed and appropriate.
- e. Be responsible for all costs associated with training traffic signal technicians.

2. The State will:

Upon completion of construction and acceptance of the Project, provide maintenance to the Project in accordance with Traffic Engineering Policies, Guidelines and Procedures (PGP), number 624.

## **III. MISCELLANEOUS PROVISIONS**

1. This Agreement shall remain in force and effect until cancelled by either party or other competent authority, upon 30 days written notice to the other party. However, it is understood and agreed that, in the event the AJFD cancels this Agreement, the State shall in no way be obligated to maintain said Project.

2. This Agreement shall become effective upon filing with the Secretary of State.

3. The State assumes no liability under this Agreement for any resulting construction project. The AJFD assumes full responsibility for the design, plans, specifications, reports, the engineering in connection therewith and the construction of the improvements contemplated, cost over-runs and construction claims. The AJFD shall require its contractors to name the State as an additional insured in the contractor's insurance policies. The AJFD shall also require its contractors to name the State as an additional indemnitee in the AJFD contracts with its contractors. It is understood and agreed that any damages arising from carrying out, in any respect, the terms of this Agreement or any modification thereof, shall be solely the liability of the AJFD and that to the extent permitted by law, the AJFD hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever which is caused by any activity, condition, misrepresentation, directives, instruction or event arising out of the performance or nonperformance of any provisions of this Agreement by the State, any of its departments, agencies, officers and employees of the AJFD, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees, shall include in the event of any action, court costs, and expenses of litigation or reasonable attorneys' fees.

4. This Agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.

5. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this Agreement.

6. In the event of any controversy, which may arise out of this Agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

7. This Agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12212) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36. The parties to this Agreement shall comply with Executive Order 99-4 issued by the Governor of the State of Arizona and incorporated herein by reference regarding "Non-Discrimination".

8. Non-Availability of Funds. Every payment of the State and the AJFD under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If such funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by the State and the AJFD at the end of the period for which the funds are available. No liability shall accrue to the State and the AJFD in the event this provision is exercised as a result of termination under this paragraph.

9. All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation  
Joint Project Administration  
205 South 17<sup>th</sup> Avenue, Mail Drop 616E  
Phoenix, AZ, 85007

Apache Junction Fire District  
Fire Chief  
565 N. Idaho Road  
Apache Junction, AZ, 85219

10. In accordance with Arizona Revised Statutes § 11-952 (D) attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this State to enter into this Agreement and that the Agreement is in proper form.


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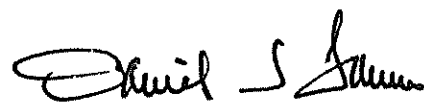
IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

APACHE JUNCTION FIRE DISTRICT

STATE OF ARIZONA

Department of Transportation

By   
JIM COWLES  
Board Chairman

By   
DANIAL S. LANCE, P.E.  
Deputy State Engineer

ATTEST

By   
MIKE COONEY  
Clerk

JPA 05-085

APPROVAL OF THE APACHE JUNCTION FIRE DISTRICT

I have reviewed the above referenced intergovernmental Agreement between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and the APACHE JUNCTION FIRE DISTRICT, an Agreement among public agencies which, has been reviewed pursuant to A.R.S. § 11-951 through § 11-954 and declare this Agreement to be in proper form and within the powers and authority granted to the AJFD under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this Agreement.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

A handwritten signature in black ink, appearing to read "Donna McIntire", is written over a horizontal line.

Attorney



Terry Goddard  
Attorney General

OFFICE OF THE ATTORNEY GENERAL  
State of Arizona

CIVIL DIVISION  
TRANSPORTATION SECTION  
WRITER'S DIRECT LINE: 602 542 8855

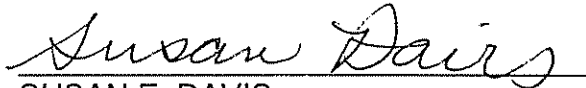
**INTERGOVERNMENTAL AGREEMENT**  
**DETERMINATION**

A.G. Contract No. KR05-0766TRN (**JPA 05-085**), an Agreement [Electrical Operation and Maintenance] between public agencies, i.e., The State of Arizona and The Apache Junction Fire District, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED: September 7, 2005

TERRY GODDARD  
Attorney General

  
SUSAN E. DAVIS  
Assistant Attorney General  
Transportation Section

SED:mjf:923275  
Attachment